

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

BRANDON CLINT RUSSELL,

Defendant.

CRIMINAL NO. JKB-23-0056

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**MOTION TO SEAL**

The United States of America, by its undersigned attorneys, hereby moves this Honorable Court for the entry of an Order sealing the Government's Supplement to *Ex Parte* Motion to Withhold From Discovery and proposed Order. As grounds for this motion, the government states as follows:

1. The Government's *Ex Parte* Motion to Withhold From Discovery contains information relating to documents that, if disclosed, would likely lead to the identification of a covert witness's true identity, and thereby endanger the witness' safety and ability to continue to work in a covert capacity in ongoing and future criminal investigations. Pursuant to Rule 16(d)(1) of the Federal Rules of Criminal Procedure, the government is seeking this relief *ex parte*.

2. The Fourth Circuit has recognized that the sealing of an indictment may be granted upon a showing of "any legitimate prosecutorial need." *United States v. Ramey*, 791 F.2d

317, 321 (4<sup>th</sup> Cir. 1986). Such “legitimate prosecutorial needs” include “protection of cooperating witnesses, and insulation of witnesses from harassment or “undue influence.”” *Id.* at 318-20. To seal an affidavit for a search warrant, the government must demonstrate that: (1) there is a compelling government interest requiring materials to be kept under seal and (2) there is no less restrictive means, such as redaction, available. *In re Search Warrants Issued on April 26, 2004*, 353 F. Supp. 2d 584 (D. Md. 2004). While the government’s request here relates to a supplement to a motion regarding discovery filed pursuant to Rule 16(d)(1) and 26.2 of the Federal Rules of Criminal Procedure, there is a compelling reason to seal the supplement to the motion, which is to protect the safety of a witness and the witness’ ability to continue to participate in ongoing and future criminal investigations.

3. The procedures for sealing are set forth in *Baltimore Sun Co. v. Goetz*, 886 F.2d 60 (4<sup>th</sup> Cir. 1989). “The judicial officer may explicitly adopt the facts that the government presents to justify the sealing . . . .” *Id.* at 65. The Court’s reasons for sealing should also be sealed. *Id.*

WHEREFORE, the government respectfully requests that its *Ex Parte* Supplement Motion to Withhold and/or Defer Discovery, and the Court’s reasons for sealing, if made express in its order, be sealed until further order of this Court.

Respectfully submitted,

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United States Attorney

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